

## **IC 3-13**

### **ARTICLE 13. VACANCIES**

#### **IC 3-13-1**

##### **Chapter 1. Early Candidate Vacancies**

#### **IC 3-13-1-1**

##### **Application of chapter**

Sec. 1. Except as provided in section 18 or 20 of this chapter, this chapter applies to the filling of a candidate vacancy that arises for any reason if the vacancy leaves a major political party without a candidate for the office and occurs before the thirtieth day before a general, special, or municipal election.

*As added by P.L.5-1986, SEC.9. Amended by P.L.3-1987, SEC.413; P.L.4-1991, SEC.123; P.L.3-1997, SEC.380.*

#### **IC 3-13-1-2**

##### **Candidate vacancy for primary election; ballot not to be filled but may be filled on following general or municipal election ballot**

Sec. 2. A candidate vacancy that exists on a primary election ballot may not be filled for the primary election. The resulting vacancy on the following general or municipal election ballot may be filled in the manner prescribed by this chapter, but only if it is filled by noon June 30 before election day.

*As added by P.L.5-1986, SEC.9. Amended by P.L.3-1987, SEC.414; P.L.4-1991, SEC.124; P.L.260-2001, SEC.6.*

#### **IC 3-13-1-3**

##### **United States Senator or state office**

Sec. 3. Except as provided in IC 3-10-8-7, a candidate vacancy for United States Senator or a state office shall be filled by the state committee of the political party.

*As added by P.L.5-1986, SEC.9. Amended by P.L.10-1989, SEC.17.*

#### **IC 3-13-1-4**

##### **United States Representatives**

Sec. 4. A candidate vacancy for United States Representative shall be filled by a caucus comprised by the precinct committeemen of the political party whose precincts are within the congressional district.

*As added by P.L.5-1986, SEC.9.*

#### **IC 3-13-1-5**

##### **Legislative office**

Sec. 5. A candidate vacancy for a legislative office shall be filled by a caucus comprised by the precinct committeemen of the political party whose precincts are within the senate or house district.

*As added by P.L.5-1986, SEC.9. Amended by P.L.26-2000, SEC.21.*

#### **IC 3-13-1-6**

### **Local office; office of circuit court judge or prosecuting attorney**

Sec. 6. (a) Except as provided in subsection (b), a candidate vacancy for a local office shall be filled by:

- (1) a caucus comprised of the precinct committeemen who are eligible to participate under section 10 of this chapter; or
- (2) the county chairman of the political party or a caucus comprised of the chairman, vice chairman, secretary, and treasurer of the county committee of the party, if:
  - (A) authorized to fill vacancies under this chapter by majority vote of the county committee; and
  - (B) the election district for the local office is entirely within one (1) county.

(b) A candidate vacancy for the office of circuit court judge or prosecuting attorney in a circuit having more than one (1) county shall be filled by a caucus comprised of the precinct committeemen who constitute the county committees of the political party for all of the circuit.

*As added by P.L.5-1986, SEC.9. Amended by P.L.3-1987, SEC.415; P.L.10-1988, SEC.182; P.L.4-1996, SEC.86; P.L.26-2000, SEC.22.*

### **IC 3-13-1-7**

#### **Time for taking action to fill candidate vacancy**

Sec. 7. (a) Except as provided in subsection (b), action to fill a candidate vacancy must be taken:

- (1) not later than noon June 30 after the primary election if the vacancy exists on a general or municipal election ballot; and
- (2) within thirty (30) days after the occurrence of the vacancy, if the vacancy exists on a special election ballot, subject to section 2 of this chapter.

(b) This subsection applies to a candidate vacancy that exists before the thirtieth day before a general, municipal, or special election and that is due to any of the following:

- (1) The death of a candidate.
- (2) The withdrawal of a candidate.
- (3) The disqualification of a candidate under IC 3-8-1-5.
- (4) A court order issued under IC 3-8-7-29(d).

Action to fill a candidate vacancy under section 3, 4, 5, or 6 of this chapter for reasons permitted under this subsection must be taken within thirty (30) days after the occurrence of the vacancy.

*As added by P.L.5-1986, SEC.9. Amended by P.L.3-1987, SEC.416; P.L.10-1988, SEC.183; P.L.4-1991, SEC.125; P.L.1-1993, SEC.14; P.L.176-1999, SEC.113; P.L.260-2001, SEC.7.*

### **IC 3-13-1-8**

#### **Meeting to be called and chaired by state or county chairman or designated party**

Sec. 8. A meeting under section 7 of this chapter shall be called and chaired by:

- (1) the state chairman, or a person designated by the state chairman, for a caucus or committee acting under section 3, 4, 5, or 6(b) of this chapter; or

(2) the county chairman of the county in which the greatest percentage of the population of the election district is located, for a caucus or committee acting under section 6(a) of this chapter.  
*As added by P.L.5-1986, SEC.9. Amended by P.L.10-1988, SEC.184; P.L.3-1989, SEC.14.*

### **IC 3-13-1-9**

#### **Requirements for call of meeting**

Sec. 9. The call for a meeting under section 7 of this chapter must:

- (1) be in writing on a form prescribed by the commission;
- (2) state the name of the chairman of the meeting;
- (3) state the purpose of the meeting;
- (4) state the date, time, and place of the meeting;
- (5) be sent by first class mail, at least ten (10) days before the meeting, to all persons eligible to participate in the meeting; and
- (6) be filed at least ten (10) days before the meeting with the official who is required to receive a certificate of candidate selection following the caucus under section 15 of this chapter.

*As added by P.L.5-1986, SEC.9. Amended by P.L.3-1997, SEC.381.*

### **IC 3-13-1-10**

#### **Eligibility to participate in caucus**

Sec. 10. (a) To be eligible to participate in a caucus called under section 7 of this chapter, an elected precinct committeeman must be entitled to vote for the office for which a candidate is to be selected. An elected precinct committeeman is eligible to participate in a caucus called under this chapter, regardless of when the ballot vacancy occurred.

(b) An appointed precinct committeeman is eligible to participate in a caucus called under section 7 of this chapter if the precinct committeeman was a committeeman thirty (30) days before the vacancy occurred.

*As added by P.L.5-1986, SEC.9. Amended by P.L.3-1987, SEC.417; P.L.10-1988, SEC.185; P.L.5-1989, SEC.66; P.L.38-1999, SEC.63; P.L.176-1999, SEC.114; P.L.26-2000, SEC.23.*

### **IC 3-13-1-10.5**

#### **Declaration of candidacy filing**

Sec. 10.5. (a) A person who wishes to be a candidate for appointment to fill a candidate vacancy under this chapter must file a declaration of candidacy on a form prescribed by the commission with:

- (1) the chairman of the caucus; and
  - (2) the official who is required to receive a certificate of candidate selection following the caucus under section 15 of this chapter;
- at least seventy-two (72) hours before the time fixed for the caucus.

(b) A candidate's declaration of candidacy must include a statement that the candidate requests the name on the candidate's voter registration record be the same as the name the candidate uses on the declaration of candidacy. If there is a difference between the name on the candidate's declaration of candidacy and the name on the candidate's voter registration record, the officer with whom the

declaration of candidacy is filed shall forward the information to the voter registration officer of the appropriate county as required by IC 3-5-7-6(e). The voter registration officer of the appropriate county shall change the name on the candidate's voter registration record to be the same as the name on the candidate's declaration of candidacy.

*As added by P.L.3-1993, SEC.222. Amended by P.L.3-1997, SEC.382; P.L.202-1999, SEC.20.*

### **IC 3-13-1-11**

#### **Establishment of rules of procedure; voting**

Sec. 11. (a) At a meeting called under section 7 of this chapter, the eligible participants shall:

- (1) establish the caucus rules of procedure, except as otherwise provided in this chapter; and
- (2) select, by a majority vote of those casting a vote for a candidate, a person to fill the candidate vacancy described in the call for the meeting.

(b) If more than one (1) person seeks to fill the vacancy, the selection shall be conducted by secret ballot.

*As added by P.L.5-1986, SEC.9. Amended by P.L.8-1986, SEC.1; P.L.3-1993, SEC.223; P.L.26-2000, SEC.24.*

### **IC 3-13-1-11.5**

#### **Voting by proxy**

Sec. 11.5. (a) Except as provided in this section, voting by proxy is not permitted in a caucus called under section 7 of this chapter.

(b) A precinct vice committeeman is entitled to participate in a caucus called under section 7 of this chapter and vote as a proxy for the vice committeeman's precinct committeeman if all of the following apply:

- (1) The vice committeeman's precinct committeeman is otherwise eligible to participate in the caucus under this chapter.
- (2) The vice committeeman's precinct committeeman is not present at the caucus.
- (3) The vice committeeman is eligible under this section.

(c) The vice committeeman of an elected precinct committeeman is eligible to participate in a caucus called under section 7 of this chapter and vote the precinct committeeman's proxy, regardless of when the ballot vacancy occurred, if the vice committeeman was the vice committeeman five (5) days before the date of the caucus.

(d) If a vice committeeman is not eligible under subsection (c), the vice committeeman is eligible to participate in a caucus called under section 7 of this chapter and vote the precinct committeeman's proxy only if the vice committeeman was the vice committeeman thirty (30) days before the ballot vacancy occurred.

*As added by P.L.26-2000, SEC.25.*

### **IC 3-13-1-12**

#### **Tiebreaking vote**

Sec. 12. If a tie vote occurs among participants acting under section 3, 4, 5, or 6(b) of this chapter, the chairman of the meeting may cast the

tiebreaking vote. If a tie vote occurs among participants acting under section 6(a) of this chapter, the county chairman may cast the tiebreaking vote.

*As added by P.L.5-1986, SEC.9.*

### **IC 3-13-1-13**

#### **Local office; appointment of person to fill vacancy**

Sec. 13. If no person is eligible to participate in the filling of a candidate vacancy for an office under section 6(a) of this chapter, the county chairman entitled to call the meeting under section 8 of this chapter shall appoint a person to fill the vacancy.

*As added by P.L.5-1986, SEC.9. Amended by P.L.10-1988, SEC.186; P.L.3-1997, SEC.383.*

### **IC 3-13-1-14**

#### **Selection of person as candidate; written consent and statement of economic interest as prerequisite**

Sec. 14. The selection of a person as a candidate under this chapter is not effective unless:

- (1) the person's written consent is obtained and filed:
  - (A) in the office in which certificates and petitions of nomination must be filed; and
  - (B) when the certificate is filed; and
- (2) the candidate has complied with any requirement under IC 3-8-1-33 to file a statement of economic interests.

*As added by P.L.5-1986, SEC.9. Amended by P.L.3-1987, SEC.418.*

### **IC 3-13-1-15**

#### **Town office; certificate of candidate selection**

Sec. 15. (a) A county chairman filling a candidate vacancy under section 6(a)(2) of this chapter or the chairman of a meeting filling a candidate vacancy under this chapter shall file a written certificate of candidate selection on a form prescribed by the commission stating the following information for each candidate selected:

- (1) The name of each candidate as:
    - (A) the candidate wants the candidate's name to appear on the ballot; and
    - (B) the candidate's name is permitted to appear on the ballot under IC 3-5-7.
  - (2) The address of each candidate.
- (b) The certificate shall be filed with:
- (1) the election division for:
    - (A) a committee acting under section 3, 4, 5, or 6(b) of this chapter; or
    - (B) a committee acting under section 6(a) of this chapter to fill a candidate vacancy in the office of judge of a circuit, superior, probate, county, or small claims court or prosecuting attorney; or
  - (2) the circuit court clerk, for a committee acting under section 6(a) of this chapter to fill a candidate vacancy for a local office not described in subdivision (1).

(c) This subsection applies to a candidate vacancy resulting from a vacancy on the primary election ballot as described in section 2 of this chapter. The certificate required by subsection (a) shall be filed not later than noon July 3 before election day.

(d) This subsection applies to all candidate vacancies not described by subsection (c). The certificate required by subsection (a) shall be filed not more than three (3) days (excluding Saturdays and Sundays) after selection of the candidates.

*As added by P.L.5-1986, SEC.9. Amended by P.L.3-1987, SEC.419; P.L.3-1993, SEC.224; P.L.3-1997, SEC.384; P.L.202-1999, SEC.21; P.L.260-2001, SEC.8.*

### **IC 3-13-1-16**

#### **Furnishing certified list of name and address of candidate selected**

Sec. 16. The election division shall furnish the circuit court clerk with a certified list of the name and address of each candidate selected under section 15 of this chapter. If a certificate of candidate selection filed with the election division is questioned under IC 3-8-1-2, the election division shall indicate on the certified list that candidate's name is not to be printed on the ballot until the question is resolved by the commission or a court with jurisdiction in the matter.

*As added by P.L.5-1986, SEC.9. Amended by P.L.3-1987, SEC.420; P.L.3-1997, SEC.385; P.L.202-1999, SEC.22.*

### **IC 3-13-1-16.5**

#### **Validity of certificate of candidate selection; reference and determination**

Sec. 16.5. (a) All questions concerning the validity of a certificate of candidate selection filed with the election division shall be determined by the commission. A statement questioning the validity of a certificate of candidate selection must be filed with the election division under IC 3-8-1-2(c) not later than noon seventy-four (74) days before the date on which the general or municipal election will be held for the office.

(b) All questions concerning the validity of a certificate of candidate selection filed with a circuit court clerk shall be referred to and determined by the county election board. A statement questioning the validity of a certificate of candidate selection must be filed with the county election board under IC 3-8-1-2(c) not later than noon seventy-four (74) days before the date on which the general or municipal election will be held for the office.

(c) The commission or a county election board shall rule on the validity of the certificate of candidate selection not later than noon sixty (60) days before the date on which the general or municipal election will be held for the office.

*As added by P.L.3-1993, SEC.225. Amended by P.L.2-1996, SEC.205; P.L.3-1997, SEC.386; P.L.58-2001, SEC.4.*

### **IC 3-13-1-17**

#### **Vacancy existing because of tie vote in primary election;**

### **selection of candidate**

Sec. 17. A candidate vacancy exists when a tie vote occurs for an office in a primary election. The candidate vacancy shall be filled under section 3, 4, 5, or 6 of this chapter.

*As added by P.L.5-1986, SEC.9. Amended by P.L.3-1987, SEC.421.*

### **IC 3-13-1-18**

#### **Town offices; certificate of candidate selection by certain minor parties**

Sec. 18. (a) If a candidate vacancy occurs in a town subject to IC 3-8-5 for any office on the ticket of a political party whose candidates were selected by petition of nomination, the vacancy may be filled only as prescribed by this section.

(b) To fill the vacancy, the town chairman of the party must file a certificate of candidate selection together with the consent required by section 14 of this chapter with the official with whom certificates must be filed. The certificate of candidate selection must be filed not later than the date and hour that a certificate of nomination by a town convention must be filed under IC 3-8-5-13.

*As added by P.L.5-1986, SEC.9. Amended by P.L.3-1987, SEC.422; P.L.5-1988, SEC.16; P.L.3-1997, SEC.387.*

### **IC 3-13-1-19**

#### **Eligibility of persons defeated in primary election or town or state convention**

Sec. 19. A person who was defeated in a primary election or in a town or state convention is eligible to be appointed by the political party that the person affiliated with by voting in the most recent primary election held by that party. The person selected may fill any vacancy on the party's ticket as a candidate in any general, municipal, or special election following that primary election or convention in which the vacancy occurred. However, a person is not disqualified from appointment under this section for not having voted in the most recent primary election if the appointee is certified as a member of that party by the county chairman for the county in which the appointee resides.

*As added by P.L.5-1986, SEC.9. Amended by P.L.3-1987, SEC.423; P.L.3-1993, SEC.226.*

### **IC 3-13-1-20**

#### **Vacancy existing following convention of certain minor parties**

Sec. 20. (a) This section applies to a political party subject to IC 3-8-4-10.

(b) A candidate vacancy that exists following the convention of the party shall be filled by the state committee of the political party not later than noon June 30 before election day. The chairman of the state committee shall act in accordance with section 15 of this chapter to certify the candidate selected to fill the vacancy.

(c) This subsection applies to a candidate vacancy resulting from a vacancy on the general election ballot resulting from the failure of the convention to nominate a candidate for an office. The certificate

required by subsection (b) shall be filed not later than noon July 3 before election day.

(d) This subsection applies to all candidate vacancies not described by subsection (c). The certificate required by subsection (b) shall be filed not more than three (3) days (excluding Saturdays and Sundays) after selection of the candidates.

*As added by P.L.3-1997, SEC.388. Amended by P.L.2-1998, SEC.8; P.L.260-2001, SEC.9.*